

cap

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE - OPELOUSAS DIVISION**

FILED
USDC, WESTERN DISTRICT OF L.
ROBERT H. SHERWELL, CLERK
DATE 4, 22, 02
BY GB

BRAD WEATHERSBY, ET AL	*	CIVIL ACTION NO: 6:01-1676
	*	
VERSUS	*	JUDGE HAIK
	*	
PARKER USA DRILLING COMPANY	*	MAGISTRATE JUDGE METHVIN

RULING

Pending before the Court is a Motion to Certify a Collective Action Pursuant to §216(b) of the Fair Labor Standards Act [#60] filed by the Plaintiffs in the above captioned case. After a review of all Memoranda and applicable statutes and cases, and considering all facts specific to this case, the Court finds that the case should not be certified as a collective action.

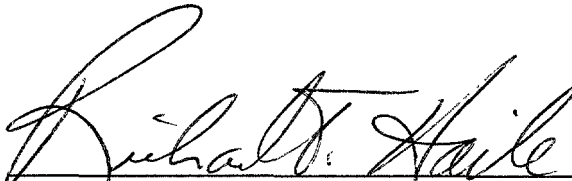
In determining whether the welders were similarly situated as independent contractors or employees, the Court looked to Carrell v. Sunland Construction, Inc., 998 F.2d 330 (5th Cir. 1993). The welders here knew that the defendant classified them as independent contractors; most welders classified themselves as independent contractors or as self-employed; these welders were highly skilled, or they would not have been accepted by the defendant; many welders owned their own equipment and made substantial investments therein; many welders had signed contracts with the defendant. While none of these factors alone is dispositive on the issue of employee versus independent contractor status, the facts taken as a whole reveal the general intent of the parties.

The Court finds that this case should not be certified as a collective action under the Fair Labor Standards Act because the welders are not similarly situated, and the claims of the welders are specific to each. The Court *is not saying* that some of the individual welders do not have valid

(71)

claims, only that the claims of the welders as a whole are not appropriate for certification. Some of the welders may be able to prove employee status; but, the totality of the circumstances reveals that those claims are personal to those individuals. Thus, the Motion to Certify a Collective Action Pursuant to §216(b) of the Fair Labor Standards Act [#60] is hereby **DENIED**.

THUS DONE AND SIGNED in Lafayette, Louisiana, this 19th day of April, 2002.


RICHARD T. HAIK, SR.
UNITED STATES DISTRICT JUDGE

COPY SENT:

DATE: 4-23-02

BY: mm

TO: Tusa

Bahrer

Robertson